

Fireworks Law as created by HB-1099 – 2006

(and amended in 2007 and 2013)

I. Fireworks & Legal Usage

1. There are 3 types of Fireworks:
 - a. **“Consumer”** fireworks¹ = certain types of “1.4G” fireworks², including:
 - i. Aerial devices (i.e. sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines and shells, etc.)
 - ii. Ground audible devices (i.e. firecrackers, salutes, chasers, etc.)
 - iii. Firework devices that combine (i.) and (ii.) above.
 - b. **“Sec 8(a)”** fireworks³, including:
 - i. Dipped sticks or wire sparklers,
 - ii. Cylindrical fountains,
 - iii. Cone fountains,
 - iv. Illuminating torches,
 - v. Wheels,
 - vi. Ground spinners,
 - vii. Flitter sparklers,
 - viii. Snakes or glow worms,
 - ix. Smoke devices, **AND**
 - x. Trick noisemakers (which include party poppers, booby traps, snappers, trick matches, cigarette loads and auto burglar alarms).
 - c. **“Special Fireworks”** = (1) “1.3G” fireworks (see footnote 1) for which a permit from the US Bureau of Alcohol, Tobacco, Firearms shall be obtained prior to purchase; and (2) “special fireworks” as defined in IC §22-11-14-1.
2. Fireworks can only be purchased by persons at least 18 years old.⁴ However, certain fireworks can be sold by persons at least 16 years old.⁵
3. Minors may only possess or use any kind of fireworks while an adult is present.⁶
4. Fireworks can only be used:
 - a. At the property of the person using the fireworks,
 - b. At the property of another who has given permission to use the fireworks, **OR**
 - c. At a “special discharge location” (a location designated for the discharge of consumer fireworks in accordance with rules adopted by the Fire Prevention and Building Safety Commission).⁷
5. Fireworks can only be set off⁸:
 - a. Between 9am & 11pm on days which are not holidays, **AND**

¹ Indiana Code §22-11-14-1

² [US DOT PHMSA Regulatory Guidelines Brochure](#) and [US BATFE Permit FAQ](#)

³ Indiana Code §22-11-14-8(a)

⁴ Indiana Code §22-11-14-8(a-c)

⁵ Indiana Code §22-11-14-8(d)

⁶ Indiana Code §22-11-14-6(c)

⁷ Indiana Code §22-11-14-6(b)

⁸ Indiana Code §22-11-14-6(d)

- b. Between 9am & midnight on holidays (defined according to IC §1-1-9-1(a), which include Memorial Day, 4th of July, Labor Day, and New Year's Eve).

II. Penalties for Violating Fireworks Usage Laws⁹

1. Class C Infraction (punishable by fine of up to \$500 per infraction)¹⁰ if:
 - a. A person uses consumer fireworks at a site other than any of the 3 specified in IC §22-11-14-6(b),
 - b. A person uses a firework outside of the allowable usage times set forth in IC §22-11-14-6(d), **OR**
 - c. A person (less than 18 years old) uses a consumer firework without an adult present and responsible.
2. Class C Misdemeanor (punishable by imprisonment up to 60 days and a fine up to \$500 per infraction)¹¹ if:
 - a. More than once in 5 years, a person who recklessly, knowingly, or intentionally uses a consumer firework at a site other than any of the 3 specified in IC §22-11-14-6(b), **OR**
 - b. More than once in 5 years, a person who recklessly, knowingly, or intentionally uses a consumer firework outside of the allowable usage times.
3. Delinquent Act under IC §31-37 if:
 - a. More than once in 5 years, a person (less than 18 years old) uses a consumer firework without an adult present and responsible.
4. Class A Misdemeanor (punishable by imprisonment up to 1 year and a fine up to \$5,000)¹² if:
 - a. A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person.
5. Level 6 Felony (punishable by imprisonment from 6 months to 2.5 years and a fine up to \$10,000)¹³ if:
 - a. A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person.
6. Level 5 Felony (punishable by imprisonment from 1 to 6 years and a fine up to \$10,000)¹⁴ if:
 - a. A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person.

III. Locations Where Fireworks May Be Sold; Inspections¹⁵

1. If fireworks are sold from a **tent**:
 - a. The tent must be no larger than 1,500 square feet,
 - b. There may be only one tent for each registration granted by the State Fire Marshal,
 - c. The tent may not be located closer than 100 ft from a permanent structure,
 - d. A vehicle may not be parked closer than 20 ft from the edge of the tent.

⁹ Indiana Code §22-11-14-6

¹⁰ Indiana Code §34-28-5-4(c)

¹¹ Indiana Code §35-50-3-4

¹² Indiana Code §35-50-3-2

¹³ Indiana Code §35-50-2-7(b)

¹⁴ Indiana Code §35-50-2-6(b)

¹⁵ Indiana Code §22-11-14-4.5

- e. The tent must be fire retardant,
 - f. The sales site must comply with all applicable local zoning and land use rules,
 - g. Sales of fireworks may be made from the tent for not more than 45 days in a year,
 - h. The weight of consumer fireworks in a tent may not exceed 3,000 gross pounds,
 - i. A retailer that legally operated a tent with a registration in 2005 may continue operation in a tent in 2006 and the following years. A registration under section 11(a) of IC §22-11-14 is required for operation in 2006 and following years.
 - j. The retailer holds a valid registration under section 11(a) of IC §22-11-14.
2. If fireworks are sold from a **Class 1 structure** (as defined in IC §22-12-1-4):
- a. The structure complied with the rules for a B-2 or M(1) building occupancy classification before 7/4/2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC §22-12-2-1:
 - 1. In which consumer fireworks were sold or stored on or before 7/4/2003;
 - 2. In a location at which the retailer was registered as a resident wholesaler in 2005; **AND**
 - 3. In which the retailer's primary business is not the sale of consumer fireworks;
 - b. The structure complies with the rules for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission established under IC §22-12-2-1, or the equivalent occupancy classification adopted thereafter, **OR**
 - c. The structure complies with the rules adopted after 7/3/2003 by the fire prevention and building safety commission established under IC §22-12-2-1 for an M building occupancy classification under the Indiana building code.
 - d. **NOTE:** A registration under section 11(a) of IC §22-11-14 is required for operation in 2006 and following years.
3. A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a structure under the following conditions:
- a. The structure must be a Class 1 structure in which consumer fireworks are sold and stored.
 - b. The sales site must comply with all applicable local zoning and land use rules.
 - c. The weight of consumer fireworks in the structure may not exceed 3,000 gross pounds of consumer fireworks.
 - d. The retailer holds a valid registration under section 11(a) of this chapter.
 - e. A retailer that sold consumer fireworks and operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years. A registration under section 11(a) of this chapter is required for operation in 2006 and following years.
4. A retailer shall file an application for each retail location on a form to be provided by the state fire marshal. (See "Compliance" section below for more details.)
5. IC §22-11-14-4.5 does not limit the quantity of items referenced in section 8(a) of IC §22-11-14 that may be sold from any Class 1 structure that complied with the rules of the fire prevention and building safety commission in effect before May 21, 2003.
6. If fireworks are to be sold by a retailer from a temporary stand, it must submit to the State Fire Marshal:

- a. An application for an annual “fireworks stand retail sales permit” before June 1st of each year,
 - b. its retail merchant certificate number or proof of application for a certificate number,
 - c. the location of each retail sales stand, **AND**
 - d. visibly post the approved “permit” and a Certificate of Compliance (including a descriptive list of approved fireworks) in each retail sales stand.
7. **Inspections.** The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure, subject to the policies and procedures of the state fire marshal.

IV. Compliance and Failure to Comply¹⁶

1. A manufacturer, wholesaler, importer, or distributor of fireworks, novelties, and trick noisemakers must apply for a Certificate of Compliance from the State Fire Marshal. If not, the State Fire Marshal “shall stop [their] shipments and sale [in the state of Indiana] of fireworks, novelties, and trick noisemakers.”
2. In order for a manufacturer, wholesaler, importer, or distributor to receive an annual Certificate of Compliance, it must submit to the State Fire Marshal (each year before June 1st):
 - a. a complete description of each item proposed to be shipped into Indiana,
 - b. a written certification that the items are manufactured in accordance with section 1 of IC §22-11-14,
 - c. a list of the names and addresses of the retail locations of each customer of the manufacturer, wholesaler, importer, or distributor at which items referenced in section 8(a) of IC §22-11-14 will be sold, **AND**
 - d. payment of the annual registration fee of \$1,000 to the State Fire Marshal.
 - e. **NOTE:** Once the State Fire Marshal issues a Certificate of Compliance, a certified copy of the certificate must be posted in each location where the items are offered for sale to the public.
3. In order for a retailer to receive an annual Certificate of Compliance to legally sell consumer fireworks to the public, it must:
 - a. File an application annually with the State Fire Marshal for each location the retailer proposes to sell the fireworks,
 - b. Pay the accompanying annual registration fee of:
 1. \$1,000 for the first location (if not already paid under subsection d above), **THEN**
 2. \$200 for each additional sales location in a structure (as stipulated in IC §22-11-14-4.5), **OR**
 3. \$500 for each additional sales location in a tent (as stipulated in IC §22-11-14-4.5).
 - c. Submit with the application:
 1. An affidavit executed by a responsible party with person knowledge, establishing that consumer fireworks were sold at retail or wholesale from a structure at the

¹⁶ Indiana Code §22-11-14-5 & §22-11-14-11

same location as of a date set forth in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of IC §22-11-14, or from a tent as of a date set forth under section 4.5(a)(9) of IC §22-11-14, **AND**

2. Proof of sales of consumer fireworks from that location. (EX: Bill of lading with address and type of product delivered or other documentation to substantiate that consumer fireworks were sold from the specific location.)
- d. **NOTE:** The Certificate of Compliance is not transferrable, except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the State Fire Marshal.

V. Public Safety Fee¹⁷

1. A user fee, known as the Public Safety Fee, is imposed on retail transactions made in Indiana of fireworks.
2. A person who acquires fireworks in a retail transaction is liable for and shall pay to the retailer at the time of transaction the appropriate amount of the Public Safety Fee.
3. The retailer shall collect the Fee as an agent for the state, has a duty to remit the Fees to the Department of State Revenue, will hold the fees collected in trust for the state and is personally liable for the payment of the fee money to the state.¹⁸
4. The Public Safety Fee is measured by the gross retail income received by a retail merchant and is imposed at the following rates:

<u>PUBLIC SAFETY FEE</u>	<u>GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION</u>
\$0.00	less than \$0.10
\$0.01	at least \$0.10 but less than \$0.30
\$0.02	at least \$0.30 but less than \$0.50
\$0.03	at least \$0.50 but less than \$0.70
\$0.04	at least \$0.70 but less than \$0.90
\$0.05	at least \$0.90 but less than \$1.10

5. **NOTE:** (a) On a retail unitary transaction in which the gross retail income received by the retail merchant is \$1.10 or more, the Public Safety Fee is 5% of that gross retail income. (b) If the Public Safety Fee computed results in a fraction of one-half cent (\$0.005) or more, the amount of the Public Safety Fee shall be rounded to the next additional cent.

¹⁷ Indiana Code §22-11-14-12 & §22-11-14-13

¹⁸ Indiana Code §22-11-14-14